



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

TRG  
Docket No: 3437-01  
30 August 2001

[REDACTED]

Dear Mr. Wood:

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 August 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 13 June 1996. On your pre-enlistment documents, you denied any preservice drug use or alcohol abuse.

On 10 September 1996, based largely on your statements, you were diagnosed as alcohol and marijuana dependent and it was noted that you were a poly-substance abuser. In addition you were diagnosed with an unspecified personality disorder with anti-social and obsessive compulsive traits. The psychiatrist recommended an inpatient treatment program to help you overcome your alcohol and drug dependence, and separation from the Navy. On 17 September 1996 you acknowledged the foregoing diagnoses and declined inpatient treatment.

On 24 September 1996 you were notified of separation processing by reason of personality disorder, fraudulent enlistment, erroneous enlistment and alcohol rehabilitation failure. In connection with this processing, you elected to waive your procedural rights. Subsequently, the separation authority directed an entry level separation. You were so separated on 2 October 1996 by reason of fraudulent enlistment. At that time, you acknowledged that you were not eligible for reenlistment and

would be assigned an RE-4 reenlistment code.

In support of your application you have submitted numerous excellent character references from active and retired military members and leaders of your community. They believe, in effect, that you would be an outstanding member of the military and recommended that your record be corrected to allow your reenlistment. You state that you were doing well in training until you discovered that your girlfriend needed assistance and you decided to get out of the Navy. You further state that you then made false statements concerning your reactions to the stress you were under, and your preservice drug and alcohol abuse. You contend that since the statements you made to gain discharge were false, you did not fraudulently enlist in the Navy. You now regret your actions and desire a change in the reason for your separation and reenlistment code so you can reenlist in the Navy.

It is well settled in the law that an individual who perpetrates a fraud in order to be discharged should not benefit from that fraud when it is discovered. In addition, the Board could not tell if you were untruthful in order to be discharged or are being untruthful now. The Board believed that whatever version of events is true, you now have to bear the consequences of your actions. The Board concluded that the reason for your separation and reenlistment code should not be changed.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director